

Christian Borda
49353-053 Unit A-1
FCI OAKDALE 1
P.O.Box 5000
Oakdale, LA 71463
Pro-Se Litigant

2018 AUG 31 PM 1:17

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CHRISTIAN BORDA,
Plaintiff,

vs.

DENNIS HARTLEY,
JAMES HOUK,
KEN PAYNE, et al
TIMBERWOLF LITIGATION
Defendants.

CASE No: 2:18CV990

COMPLAINT FOR FRAUD AND FOR
IMMEDIATE ISSUANCE AND SERVICE OF
SUMMONS ON ALL DEFENDANTS PURSUANT
TO FED. RVCIV. PROC. 4(i)

ROOM: ---

DATE:

To Honorable United States Judge

TAKE NOTICE that in the above designate Court Room Christian Borda, in Pro-Se, respectfully prsents the Notice and Complaint for deceptive act and fraudulent misrepresentation in violation of Consumer Protection Act.

1. JURISDICTION 28 U.S.C. §§ 1331 and 1391

Plaintiff is a prisoner incarcerated in FCI Oakdale 1, Oakdale, Louisiana;

2. Defendants are individuals who resides in Ohio, and are citizens of the United States.

3. This court has jurisdiction of this action because:

a.) there is a complete diversity of citizenship between the Paintiff and Defendants;

b.) The matter in controversy exceeds the sum of \$ 10,000 dols. exclusive of interest and cost.

4. CLAIM FOR RELIEF

Since November 7, 2017, Defendants and Plaintiff were negotiating concerning the services by Timberwolf as legal adviser and research group for a § 2255 Motion, which dateline was June 26, 2018;

5. At this time, Defendants falsely and fraudulently represented the plaintiff interests:

A.) That Complaint of Causes of Action here represents a legal action against the Defendant's misrepresentation of services offered by Timberwols's Team: Ken Payne, Administration, James Houk, Investigations & Research, and Dennis Hartley, Attorney and General counsel at Timberwolf.[See Exhibit 2. Advertising]

B.) The Defendant's Instructions for the Lawyer release Form were received and the entire legal file was received and unfortunately retained without any result by the Timberwolf Team.[See Exhibit 3(a)(b)]

6. The representations made by the Defendants were false and fraudulent:

i. On November 7, 2017, Sandra Paez, acting in representation of Plaintiff Christian Borda, initiated a payment plan with Timberwolf Head Research James Houk. The payment Plan was initiated as appears reflected by the Exhibits and documents prsented in support of this Complaint. [See Exhibits 4(a)(b)(c)(d)]

ii. On December 4, 2017, the downpayment for Timberwolf services were fulfil. [See Exhibit 5. Transaction slips]

iii. The proper information requested by Timberwolf were current contact information and the information sended by James Houk was used by Plaintiff without response. [See Exhibits: 6 and 7.]

7. At the time that the representations were made the Defendants

knew that they were false.

8. The defendants made the false representations with the intent that the Plaintiff would rely on them, and pay for the preparation of a § 2255 motion in Plaintiff's behalf.[Exhibits: 8(a) to 8(i)]

9. At the time that the representations were made, the Plaintiff believed that they were true.

10. The Plaintiff relied on the representations, to receive professional advise and proper legal research to prepare a §2255 motion in his behalf, but not to be prejudiced by the abandon of his opportunity to file his § 2255 before the June 26th., 2018, plus \$4,600 dols., payed to to Timberwolf, and cost of documentation and expenses in total of \$ 10,000 dols.

11. By reason of these facts, the above Plaintiff has been damaged in the total sum of \$14,600 dols.

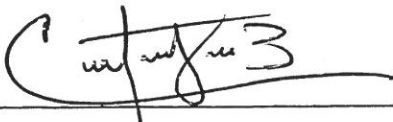
12. Plaintiff demands trial by jury.

PRAYER

Plaintiff demands judgement against defendants:

- A. In the sum of \$14,600 Dols. for compensatory damages;
- B. For punitive and exemplary damages as determined by the trier of fact;
- C. For cost of suit.

Dated: This 24 day of August, 2018.



Christian Borda, In Pro-Se
49353-053

Christian Borda
49353-053 Unit A-1
FCI Oakdale 1
P.O.BOX 5000
Oakdale, LA 71463
Pro-Se Litigant

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CHRISTIAN BORDA,

Plaintiff,

Vs.

DENNIS HARTLEY and
TIMBERWOLF LITIGATION,

Respondents.

CR-CASE: 2:18CV990

ORIGINAL COMPLAINT FOR DECEPTIVE
ACT AND FRAUDULENT MISREPRESENTATION
IN VIOLATION OF CONSUMER PROTECTION ACT.

SERVICE OF SUMMONS

DECLARATION AND EXHIBITS IN SUPPORT

MEMORANDUM OF POINTS AND AUTHORITIES

COMES NOW, Christian Borda, in Pro-Se, respectfully, urges this Honorable District Court for a service of summons and response to the original complaint for fraud in the false promise of legal advise and representation to prepare and file a § 2255 motion.

Plaintiff Christian Borda is suing the attorney Dennis Hartley, for fraud as legal representant of Timberwolf.[See Exhibits Attached]

BACKGROUND

After the appeal's result, affirming his sentence, Plaintiff has been searching for professional assistance to prepare and file his § 2255 motion.

Timberwolf's advertise offers a legal advise and research sevicees for legal actions in court, in the present case, the § 2255 motion to be represented by the attorney Dennis Hartley.

The Plaintiff is direct purchaser of defendant's service. In fact, plaintiff is injured by virtue of a deceptive act by knowingly

a false representation as legal advisor. Timberwolf's intentional wrong behavior with respect to the false promise to prepare and file a § 2255 motion in behalf of Plaintiff Christian Borda constitute a deceptive act as appears reflected on the Declaration and Exhibits submitted in support of this Claim for damages.

GOVERNING LAW

"The cause of action for fraud in the false promise of legal advise and representation has several Common law causes of action, including fraud in the inducement sounding in tort and rescission sounding in contract." IN RE State Of Mckenny, 935 A.2d 336-41 (D.C. 2008)

"Any person who shall be injured by reason of anything forbidden in the commercial laws may sue therefore in any district court of the United States... and shall recover threefold the damages by him sustained."

Because Plaintiff's claim sounds in tort, it is not, by its nature, an issue arising under the contract. "The Tort Claim is collateral to the terms of the contract itself," and thus, Timberwolf has no bearing on the question of whether Plaintiff have stated a claim for the tort of fraud in the inducement. In sum, district of Ohio governs this claim in all respects.

Plaintiff is alleging a false representation as a court consultants and research group in behalf of Plaintiff.[See Documents received as part of the inducement] Authorizing the production of Plaintiff's file in possession of the attorneys: Marcia Shain [Appeal] And Eduardo Balarezo.[Trial attorney]

Plaintiff have suffered the unfair injury as a consequence of their reliance on the misrepresentation.

The Sixth Circuit then Noted:

...!...if the agents responsible for the adverse conduct are the officers or directors of the principal and those officers or directors" so dominated and controlled the [principal] that [the principal] had no separate mind, will or existence of its own," then the officers and directors are deemed the "alter egos" of the principal and any malfeasance of their parts is directly attributable to the Principal."

Terlecky v. Hurd (In Re Dubling Sec.) 133 F.3d 377
(6 Cir. 1997)

Plaintiff's Cause of Action for Punitive Damages to deter Timberwolf from similar conduct in the future, is requested by law, because by the advertise offered in magazines and the net. others could be injured.

Plaintiff is requesting and order for the reimburse of the money payed to Timberwolf , plus the cost of the personel involved in this unfair representation.

Timberwolf failed to adequately prepare and file § 2255 Motion which last filing date was June 26th., 2018. Defendants engaged in deceptive acts by claaiming that they had "experienced attorneys" and legal adviser to represents properly his clients in the court. Contrary, by Timberwolf's negligence and reckless, the Plaintiff's § 2255 motion never was filed in detriment of Plaintiff's interests.

In ligh of the obvious deprivation of necessary access to the court, Defendant's refusal to provide legal assistance and research preparation , is a false representation of their advertising which result is an act that caused substantial injury.

" An act is unfair if it causes or is likely to cause substantial injury to consumers which is not reasonably by consumers themselves..." Davis v. McGoigan, 325 S.w 3d 149 161-62 (Tenn 2010)

Timberwolf deceptive actions prejudiced with malice intent to continuing the preparation and file of Plaintiff's legal action under § 2255, because since March 5, 2018 they have possession of the entire record and Plaintiff's files, [See Exhibit 9] and still in control of then without any result.

The material misrepresentation and deceptive act that is causing an ascertainable loss in the amount of \$ 14.600 dols., which collateral damages need to be evaluated by the court and also punish the defendants to deter similar conduct in the future.

" Unfair or deceptive acts or practices
in the conduct of any trade or commerce."

OHIO CSPA makes it unlawful for a supplier to engage in an unfair or deceptive act or practice in connection with a consumer transaction. OHIO REV. CODE 1345.02 (A) it defines consumer transaction as....a service, assignment...etc.

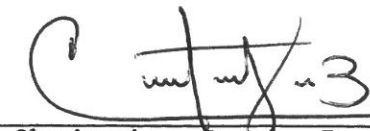
The essential elements of cause of action for fraud or deceit are: Misrepresentation a fraudulent utterance thereof, and intention to induce action thereby, justifiable reliance there on , and damages.

CONCLUSION

Plaintiff Christian Borda is meeting the essential elements of cause of action for fraud and deceptive legal research for his § 2255 motion. For this reasons he is praying for service of summons and proper resolution of this demand for damages.

Respectfully,

Dated: This 24 day of August, 2018



Christian Borda In Pro-Se
49353-053 Unit A-1
FCI Oakdale 1
P.O.BOX 5000 Oakdale, LA 71463

DECLARATION IN SUPPORT

I, Chistian Borda, Plaintiff in the present demand for fraud declares and states as follows:

1. I state and declare that in the interest of prepare and file my §2255 which deadline was June 26th., 2018, I initiate a commercial deal with Timberwolf Litigation & Reaserch Servicess,LLC.

2. I Declare that as a prospective Customer I was served with a complete Pack of advertising that make me choose Timberwolf as the Team for the research and preparation of my § 2255.[11/7/17, "EXH"4]

3. I Declare and state that by 12/4/2017, my family deposited through Lisa Paez the total of \$2,500 dols, as down payment on the \$7,500 dols. that were accordated for the fulfilment of my §2255 motion.

4. I declare and state that another \$ 2,000 dols. were paid after the authorization and release of my entire legal files.

5. I declare and stated that for more of 3 months I was without any expanation of the final results of the services paid to Timberwolf's Team, and in a desperate situation, due the deadline, I contracted a paralegal services of Rafael Giraldo to update what Timberwolf had done, and healping to finest on time my § 2255 motion.

6. I declare and states that James Houk by May 3,2018 wrote: "That Mr. Ken is now back in the country and taking all the calls he is behain on", but he never answer to Mr. Giraldo.

7. I declare and stated that by the unfair response on May 13, 2018, 45 days before the deadline to file my § 2255 motion, I was clear that the Timberwolf's Team deceip me and mislead my family. [See "EXH." 8(i) Front/back]

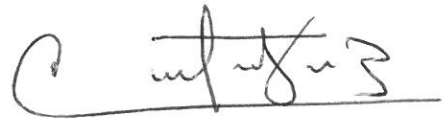
8. I declare and stated that no documents or any response to my requests for proper and just preparation of tolling due to the "exceptional circumstances" that the Timberwolf' Team has been confront in order to fulfil my § 2255 motion, nothing else.

9. I declare that by the unprofessional and irresponsible actions by Timberwolf Litigation and Research Services, I 'm adversely affected and impeaded to continuing my litigation pursuing the criminal case under § 2255.

I declare that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

Sincerely,

DATED: August 24th., 2018



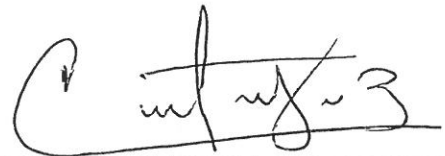
Christian Borda
49353-053 Unit A-1
FCI Oakdale 1
P.O.BOX 5000
Oakdale, LA 71463

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing documents: COMPLAINT FOR FRAUD AND FOR IMMEDIATE ISSUANCE OF SUMMONS ON ALL DEFENDANTS PURSUANT TO FED.R.CIV. P. 4(i) ; ORIGINAL COMPLAINT FOR DECEPTIVE ACT AND FRAUDULENT MISREPRESENTATION IN VIOLATION OF CONSUMER ACT: SERVICE OF SUMMONS: DECLARATION AND EXHIBITS IN SUPPORT: MEMORANDUM OF POINTS AND AUTHORITIES,

has been send to the office of Dennis Hartley, Senior Counsel, for Timberwolf, and that such copies has been deposited for delivery in the mail box of this facility, Oakdale 1 on this 24 th., day of August, 2018, to:

Dennis Hartley, General Cuounsel at Timberwolf
Ken Payne, Admistrator, Timberwolf,
James Houk, Investigations &Research Heat for Timberwolf Litigation
112 East High Street, Eaton Ohio, 45320

A handwritten signature in black ink, appearing to read 'C Borda', is written over a horizontal line.

Christian Borda, In Pro-Se
49353-053 Unit A-1
FCI Oakdale 1
P.O.BOX 5000
Oakdale, LA 71463